

CLIMATE CHANGE LEGISLATION IN

BOLIVIA

AN EXCERPT FROM

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Bolivia

Legislative Process

The Plurinational State of Bolivia adopted a new-constitution by popular referendum in 2009 that prioritises popular democratic participation and affirms social, economic and political plurality. The government is divided into four branches: executive, legislative, judicial and electoral. The executive branch is composed of the President (head of state), Vice-President and the Cabinet of Ministers. The legislative branch is bicameral and consists of the Senate – in which 36 members sit, four representatives from each of the nine regional authorities (called departments) – and the House of Deputies – with 130 members, half of whom are elected by popular direct vote and the other half listed on the presidential ticket. The most recent elections were held in December 2014 and the next legislative elections will be held in 2019.

Any congressional representative, the Vice-President, the President, the Supreme Court, or any citizen of the Republic may initiate proposed legislation, called law projects. Once a law project is passed in one house, it is debated and considered in the other. Both houses must pass the bill by a simple majority, and modifications must be resolved between the two houses by a conference committee before the President can sign it into law. Should the President oppose some provision of the legislation, he/she may return the bill with a written statement to the house of origin where the objections will be considered and passed with modifications (again in both houses). Alternatively Congress may override presidential objections or veto by a two-thirds majority vote in both houses.

Approach to Climate Change

Bolivia ratified the UNFCCC in 1994 as a non-annex I party and has been vocal in international climate change debates. Its national approach differs from many countries that have followed the models of UNFCCC annex I countries. A new constitution ratified in 2009 guarantees citizens the right to a healthy environment and the new social, economic, environmental and territorial model championed by the President prioritises improving the quality of life for citizens through sustainable development deemed harmonious with natural ecosystems.

In its approach to climate change Bolivia begins from the premise that wealthy industrialised countries owe a “climate debt” or “climate deficit” both to the earth (as a political subject) and to states that are not historical polluters. It calls for significant transfer of funds from countries with a “climate debt” to developing countries as payment, or reparation; as well as for increased technology transfer so that poorer countries may develop using cleaner, more efficient technology. Bolivia has proposed that the UNFCCC shall support the protection of the integrity of Mother Earth enhancing the non-market-based approach of the Convention based on co-operation among parties. In order to keep the temperature degree change below 1.5°C, a global emission index must be applied to divide among all parties the remaining carbon budget according to a criteria based on historical responsibility, right to development, ecological footprint and technological capabilities. In addition, an International Tribunal of Climate Justice must be established to oversee the fulfilment of the obligations of parties. Bolivia additionally proposed concrete mechanisms based on a non-market-approach, such as a Climate Resilience and Sustainable Development Mechanism and the Joint Mitigation and Adaptation Mechanism for the Integral and Sustainable Management of Forests, to support developing countries to promote sustainable development trajectories that combine mitigation and adaptation to climate change.

In accordance with its desire to increase democratic participation and the voice of civil society in climate change, Bolivia hosted an international summit called The World People’s Summit on Climate Change and the Rights of Mother Earth in 2010. According to the government, more than 35,000 delegates from 140 countries participated in the conference, which was a response to the

Copenhagen Climate Change Conference. The conference organised working-group committees and eventually passed a communiqué, including a “People’s Agreement” and a draft of the “Universal Declaration of Mother Earth’s Rights,” which was submitted to the UNFCCC.

The government also believes the planet is an entity with inherent rights to be protected by states. The legislature has adopted the same ideology and passed the Rights of Mother Earth Law in 2010 and The Mother Earth Law and Integral Development to Live Well Law in 2012. Together the two laws are a sweeping overhaul of the national management of natural resources, climate, and ecosystem and aims to incorporate climate change perspectives into general environmental and socio-economic legislative frameworks. Climate change is mentioned in reference to equitable distribution of wealth and the right to access clean water. The law incorporates environmental justice and climate justice into the country’s environmental legal framework, creating new authoritative bodies to implement forestry, adaptation and mitigation plans; however, it lacks any hard targets by which to measure implementation of the law.

Under The Mother Earth Law, a government authority is established to oversee the implementation of climate change mitigation and adaptation principles, called the Plurinational Authority of Mother Earth and operating within the Ministry of Environment and Water (the ministry also includes a Sub-Secretary of Climate Change) and will pursue a three-pronged approach: incorporating mitigation and adaptation into national forestry management, and campaigns dedicated to mitigation and adaptation spanning various sectors of society as well as governmental institutions.

Bolivia saw the launch of the first municipal plan focused on adaptation to climate change in 2012 by the municipality of Villamontes, in the department of Tarija. The municipal government co-ordinated the adaptation plan with input from the Latin American Development Bank and national NGOs. Local indigenous groups (referred to as native peoples) called for a plan to better manage the biodiversity of the region in relation to changing climatic conditions. The plan is described as incorporating local knowledge and ancestral traditions of environmental management. It is meant to serve as a replicable model for other municipalities, especially in areas where communities depend on the local natural environment for their sustenance and economic security.

Energy Supply

The Second National Communication to the UNFCCC (2009) reports that Bolivia is nearly self-sufficient in terms of electric energy consumption and that “the government’s goal is to turn Bolivia into an energy powerhouse in the region.” The government posits that vast reserves of natural gas and significant hydropower electricity will maintain relatively low carbon emissions. An executive decree passed in 2005 approving The National Programme for Energy Efficiency was the first policy to treat both energy supply and demand in relation to climate change. The Plan sought to make reality the “vision” of Bolivia exploiting electricity-producing energy sources to sufficiently satisfy internal demand (including the demand of the country’s poorest citizens) in a rational and efficient manner as well as becoming a principle exporter of electricity in the South American Andean region.

The Law of Mother Earth (2012) reinforces the state’s preference for natural gas as a relatively low-carbon emitting resource. It states that the government shall incrementally require a growing percentage of energy consumed through the national electrical grid to be sourced from renewable “alternative sources”, but it does not give a timeframe or set any measurable targets.

Energy Demand

In various pieces of framework legislation, including the Constitution and the General Law of Electricity (1992), the rational and efficient use of energy is mentioned as a national interest. This is reinforced by the executive decree for Energy Efficiency and the Law of Mother Earth. The Plan for Energy Efficiency granted considerable authority to the Ministry of Hydrocarbons and Energy to create and enforce various energy efficiency standards, educational campaigns encouraging

efficient consumption. The Plan also called for the drafting of a General Law on Energy Efficiency, which was passed in 2012. The law contains broad directions for the national and regional government to incentivise “plans, programmes and projects that seek to optimise rational use of energy” through education campaigns. The only specific directive is the project to encourage voluntarily adoption of energy efficient light bulbs (for example giving away five million efficient incandescent light bulbs).

Carbon pricing

Bolivia has a national policy stance of rejecting carbon markets. It argues that effective mitigation will come from measurable reduction of emissions domestically rather than through trading schemes that allow firms to obscure or “offset” their material emissions. As a country facing a variety of development challenges, Bolivia critiques carbon markets as an opportunity for wealthy industrialised countries to purchase emission reductions in other countries while continuing to pollute at the same rate in their own country. For this reason it refuses to participate in any carbon pricing and trading scheme.

REDD+ and LULUCF

An estimated 50% of territory is forested and 250,000 ha are lost each year most of them in areas classified as agricultural lands in the Land Use Plans of the country, mainly to agricultural expansion, small-scale farmers moving their operations to the lowlands due to highland drought, and unsustainable logging practices. Bolivia started to develop the REDD+ programme but later rejected the programme and is now one of the most critical voices against REDD+ implementation. The programme was renegotiated and redrafted in order to support the Bolivian proposal of the Joint Mitigation and Adaptation Mechanism for the Integral and Sustainable Management of Forests.

REDD, as conceived by international agencies and media, has come under criticism by indigenous groups and the government. Indigenous leaders joined other Latin American indigenous peoples at a parallel summit to the Rio+20 meeting and denounced REDD+ contracts and carbon credits associated with REDD programmes. They have called into doubt which political and commercial actors directly benefit from REDD+ programmes and have condemned any attempt to commodify nature while ignoring the traditional knowledge of indigenous cultures. The Law of Mother Earth responds to this criticism by prioritising traditional mechanisms of caring for forested areas.

Adaptation

The Law of Mother Earth proposes the development of the Plurinational Plan of Climate Change that include mitigation and adaptation, still under elaboration in the government. There is no specific legislation or executive decree on adaptation to climate change, but the National Development Plan (2006) calls for adaptation to climate change. The National Climate Change Programme has developed and implemented adaptation projects in various regions of the country.

The Mother Earth Law has an implicit focus on harmonising human and community development with the ecosystem. It therefore establishes a framework through which the government may prepare for future climate changes. By the close of 2014, for example, the government promulgated a disaster risk management law, which incorporates climate change forecasts into national, regional and local risk management strategies. In addition to creating a national fund to finance prevention projects (including adaptation programming), it decentralises planning, giving local and regional governments more authority and responsibility for building resiliency, managing risk, and responding to disaster.

At time of publication, Bolivia was reportedly developing the Plurinational Plan of Mother Earth and Climate Change. The Plan will evaluate and estimate the impacts of governmental actions with respect to climate change. The scope of the Plan as well as the defining elements of the INDCs are still being determined.

Bolivia: Legislative Portfolio

Name of law	Law No. 602 of Risks Management
Date	14 November 2014
Summary	<p>This law creates a national framework for disaster prevention and resilience as well as protocols for responding to disasters. It incorporates a climate change perspective by including measures that aim to adapt to changing climate conditions.</p> <p>The law creates the National Advisory for the Reduction of Risks and Attention to Disasters, which will include the national as well as provincial and municipal governments. The board allows for regional governments to declare a state of emergency without a federal decree. It further decentralizes responsibility to local governments to implement resiliency plans in preparation for climate and natural disasters before they occur.</p> <p>The law creates an initial fund of 0.15% of the national budget, amounting to BOB80m (USD11.6m) to fund humanitarian aid during aftermath of natural disasters.</p>

Name of law	Law No. 305 on the Efficient and Rational Use of Energy
Date	9 November 2012
Summary	<p>This law consists of three succinct articles (i) declaring Bolivia’s national interest in implementing plans, programmes and projects concerning energy efficiency; (ii) declaring the substitution of incandescent light bulbs for energy efficient fluorescent bulbs to be carried out through education campaigns; and (iii) that the executive branch in coordination with regional governments will develop education campaigns concerning efficient consumption of energy and light bulb recycling.</p>

Name of law	The Mother Earth Law and Integral Development to Live Well, Law No 300
Date	15 October 2012
Summary	<p>The Mother Earth Law is a piece of legislation that epitomises Bolivia’s dedication to sustainable development, respecting the balance between human life and the natural environment, and prioritising the rights and knowledge of the country’s majority indigenous population. The expressed objective of the law is to “establish the vision and fundamentals of integral development in harmony and balance with Mother Earth to Live Well, guaranteeing the continued capacity of Mother Earth to regenerate natural systems, recuperating and strengthening local and ancestral practices, within the framework of rights, obligations and responsibilities”.</p> <p>In relation to climate change the law has many provisions that outline the state’s vision, citizens’ rights, and responsibilities. It embraces the concept of “climate justice”, defined by the ability of all Bolivian citizens to “Live Well”, especially those who are most vulnerable to climate change. It reinforces the point that some states have more of a global responsibility to respond to climate change.</p> <p>To encourage sustainable development of natural resources, it states that climate change trajectories should be accounted for when planning and zoning responsible land use.</p> <p>The law focuses on reducing the risks posed by climate change through six lines of actions:</p> <ul style="list-style-type: none"> • The permanent incorporation of prevention of and managed response to natural disasters into the System of Integral Planning • Risk management for the agricultural sector to prevent diminished crop yields and food insecurity • The adoption of risk management of disasters as well as adaption to climate change across state development projects; development of informational networks to issue early warnings in times of natural crisis as well as to assist the agricultural industry and indigenous communities plan according to climate conditions • Strengthening territorial management processes of sub-national governments through the incorporation of risk management and adaption to climate change perspectives • Articulation between public and private scientific research sectors to share knowledge and co-ordinate research regarding vulnerabilities related to climate change <p>The Law defines “Living Well” in relation to climate change and lays out the state’s legal obligations. The state will develop policies, strategies and legal techniques to mitigate the</p>

effects of climate change and adapt to them through strengthening institutional capacities for the monitoring of climate with the purpose of long-term planning. The state will also encourage the recuperation of traditional indigenous practices that were historically sustainable and allowed for the natural regeneration of resources.

The law also establishes the Plurinational Authority of Mother Earth, within the Ministry of Environment and Water, as the state entity responsible for much of the development, overseeing and co-ordination of projects, programmes and research as it relates to climate change and the objectives of the Plurinational Plan for Climate Change. It also co-ordinates scientific monitoring of GHG emissions. The entity will operate within the framework of “climate justice,” following the principles of Bolivia’s climate change politics.

The Authority will operate through three mechanisms: (1) Joint Mechanism of Mitigation and Adaptation for the Integral and Sustainable Management of Mother Earth’s Forests; (2) Mitigation Mechanism to “Living Well”; and (3) Adaptation Mechanism to “Living Well”.

The Authority is also responsible for the management of the Plurinational Fund of Mother Earth. The Fund will be financed with multilateral and bilateral aid, public money from the national government allocated to mitigation or adaptation, funds from private donors, national or international loans, and funds at the disposal of the executive branch.

Name of law	The Rights of Mother Earth Law
Date	December 2010
Summary	This law is a general framework that preceding the more comprehensive 2012 Mother Earth Law. This law’s single objective is to recognize Mother Earth as a political subject enshrined with the following rights: life, biodiversity, water, clean air, equilibrium, restoration, and life free from contamination. The law stipulates the obligations of the government to protect the rights of Mother Earth as well as the responsibilities of all citizens.

Name of law	Forest Law No. 1700
Date	12 September 1996
Summary	This law was written to bring forestry legislation up to standards with the international conventions that Bolivia has signed, including the ratification of the UNFCCC as well as the UN Convention to Combat Desertification and Drought.

The law updates the legal framework, shoring up the federal state’s authority to regulate the forestry industry and economic land use. The objective listed in the law’s text is to establish legal norms for the sustainable use and protection of national forests, harmonising social, economic and ecological interests for present and future generations.

The law creates a Regimen of National Forests to be overseen by a national Forestry Superintendent, and a National Forest Development Fund; all of which are under the Ministry of Sustainable Development and Environment (now called the Ministry of Environment and Water).

This is an early legislative action to combat desertification in Bolivia, mitigate the negative effects of GHG emissions through the conservation of tropical forests, and preserve the natural environment for future generations. While climate change was one driver for this law, explicit mention of climate change is marginal to the logic of conservation; and the Law of Mother Earth (listed above as the national flagship legislation) now occupies the main role in incorporating mitigation and adaptation strategies to forestry management.

Bolivia: Executive Portfolio

Name of policy	Executive Decree No. 29466, approving the National Programme for Energy Efficiency
Date	5 March 2008
Summary	This two-article decree approves the National Programme for Energy Efficiency, which has the objective of establishing policies and implementing projects that optimize rational and efficient use of energy, and names the Minister of Hydrocarbons and Energy as the responsible authority. The expected results of the programme are: (i) national energy independence (ii) savings for consumers as well as the nation (iii) environmental protection, including the prevention of carbon emissions and (iv) increased equitable access to energy for the poorest families.

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